

January 25, 2006

The Honorable Peter Franchot  
Chair, Subcommittee on Transportation  
And the Environment  
House Appropriations Committee  
424 Lowe House Office Building  
Annapolis, Maryland 21401-1991

**Re: Office of People's Counsel Budget Hearing, House Appropriations Committee,  
Transportation and Environment Subcommittee, January 25, 2006**

Dear Delegate Franchot and Members of the Subcommittee:

The Office of People's Counsel (OPC) welcomes this opportunity to discuss with you some of the most pressing issues facing our clients, Maryland's residential utility customers. The following three sections address issues that the OPC has been asked to comment upon today. The final section of this letter addresses specific recommendations made by the Department of Legislative Services analysts regarding OPC's proposed budget. Additionally, the OPC is prepared to respond immediately to any questions you may have about the role of the OPC in cases before the Public Service Commission (PSC), The Federal Energy Regulatory Commission (FERC), other agencies and the courts.

**A. Baltimore Gas and Electric Company Rate Cap Expiration**

The OPC has been asked to comment upon steps it has taken to ensure that customers are aware of the BGE rate cap expiration this coming June. Over the past months, the OPC has made the focus of its outreach efforts the real potential for significantly increased electric bills in the BGE service territory. Representatives of OPC regularly attend outreach events ranging in size from a few customers at a community or senior center to hundreds of customers at energy expos. At each of these events, OPC representatives are prepared to answer questions about the reasons for the possible increase, the projected magnitude of the increase and ways that customers can mitigate the impact on their households through things like Personal Energy Management. OPC also takes the opportunity at these outreach events to explain that there are assistance programs such as MEAP and EUSP available for qualified consumers. OPC also makes information available regarding budget billing and about how consumers may be able to leverage the Earned Income Tax Credit to be used to help pay utility bills.

An adjunct to traditional outreach activities is to try to cast as wide an information net as possible by using various media outlets. The OPC is interviewed regularly by members of the press (both print and radio/television) and takes the opportunity each time to try to talk about electric deregulation, standard offer service (SOS) and potential price impacts that customers will experience. The OPC expects that the pace and

frequency of these contacts will continue to increase as the time for expiration of rate caps nears.

The OPC website: [www.opc.state.md.us](http://www.opc.state.md.us) is regularly updated with information regarding the impact of electric deregulation on customers. The Electricity Section of the website will be updated with the actual price impact on BGE's residential customers as soon as the bid results for the current round of bidding are publicly released. Additionally, as it did when PEPCO and Conectiv's customers first began to experience increased prices as caps came off, the OPC will issue written and electronic "Consumer Alerts" and make its Electric Rates Hotline available at 1-866-601-2233.

Finally, the Public Service Commission has recently opened a docket to investigate a residential electric rate stabilization plan for the BGE service territory. The Commission Staff released its proposal on January 23, 2006. The OPC will file testimony commenting on the Commission's proposal on February 13, 2006.

**B. Potential Impact of the Proposed Florida Power and Constellation Energy Merger On Residential Customers.**

On January 6, 2006, the OPC filed a Complaint with the Public Service Commission requesting that the PSC investigate the impact of the proposed merger on Constellation's regulated subsidiary, Baltimore Gas and Electric Company. (See Attachment A). At this time, the full extent of the impact of the proposed merger is not known. That is one reason that OPC has requested a hearing. Based upon information that the OPC has gathered to date, OPC has concerns about the following issues:

- a. Whether BGE ratepayers will be fully insulated from paying hurricane – related repair charges for the FPL system.
- b. Because the Companies project substantial merger-related savings, OPC would like the PSC to investigate whether it is appropriate for BGE ratepayers to receive a share of those savings.
- c. OPC asks that the PSC investigate whether the merged company should be subject to quality of service standards or performance measures to ensure that BGE's reliability does not "slip" as a result of the merger.
- d. OPC requests that the PSC determine whether the possibility exists that BGE's utility revenues and high credit ratings are being leveraged to inappropriately finance unregulated operations.

The OPC will continue to supplement its Complaint as information becomes available. OPC intends to sponsor expert witnesses in any proceeding involving this merger.

**C. The BGE Gas Rate Increase**

On April 29, 2005, BGE filed an application with the Public Service Commission to increase its gas distribution rates by \$52.7 million. After receiving actual results for the test year and taking into consideration recommendations made by other parties' witnesses (including People's Counsel's witnesses), BGE lowered its request to \$45.6 million. As an active party, the OPC presented the testimony of three expert witnesses who recommended an increase of no more than \$19.8 million based upon Commission precedent and standard regulatory accounting practice. After reviewing the evidence and the parties' written briefs, the PSC issued an order on December 21, 2005 which allowed BGE to increase its gas rates by \$35.6 million. The impact of this increase on an average residential customer is about \$3 per month.

The Office of People's Counsel has appealed. OPC is particularly concerned that the PSC order regarding cost of capital is not supported by substantial evidence in the record. The OPC filed its Notice of Appeal on January 5, 2006 in the Circuit Court For Baltimore City. (See Attachment B). The OPC will file briefs and present oral arguments in support of the appeal over the next few months.

### **Comments on Proposed Reduction for Contractual Law Clerk**

The Department of Legislative Services has recommended that OPC's FY07 budget be reduced by \$10,000.00 to reflect the denial of a part-time contractual law clerk position. DLS indicates that the position "is not essential to OPC's fiscal operations."

OPC respectfully requests that the Committee reject this recommendation and allow the part-time contractual law clerk position to be funded at \$10,000.00. Although a law clerk is not technically "essential," OPC urges the Committee to focus instead on whether the law clerk would be useful and helpful to OPC in serving its clients. Past law clerks have provided invaluable and time saving assistance to OPC attorneys in tasks ranging from routine legal research to drafting portions of pleadings and briefs under supervision. OPC expects that, if funded, the contractual law clerk for FY07 will provide similar assistance to OPC's attorneys in furtherance of the goal of protecting Maryland's residential utility consumers.

OPC welcomes any additional questions you have. Thank you for your time and attention. We ask for your continued support in approving a budget request designed to serve the needs of Maryland's residential utility consumers.

Sincerely,

Patricia A. Smith  
People's Counsel

Theresa V. Czarski  
Deputy People's Counsel

PAS/TVC/ds  
Attachment